

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appln No.: 09/432,824
 Applicants: Quayle et al.
 Filed: November 2, 1999
 For: CELLULAR WIRELESS
 INTERNET ACCESS SYSTEM
 USING SPREAD SPECTRUM
 AND INTERNET PROTOCOL (IP)
 TC/A.U.: 2682
 Examiner: Yuwen Pan

Docket No.: 72408
 Customer No.: 22242

Confirmation No. 1614

CERTIFICATE OF MAILING

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this date.

9/22/03
Date


 Steven G. Parmelee
 Registration No. 28,790
 Attorney for Applicant(s)

#13
 TLR 9/25/03
 (N.E.)
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PRELIMINARY RESPONSE

Commissioner for Patents
 P.O. Box 1450
 Alexandria, VA 22313

OFFICIAL

The Examiner has entered a final rejection as mailed on September 2, 2003.

The applicant respectfully submits, however, that this Office Action should not be "final." In particular, in the first Office Action, claim 12 was only rejected under 35 U.S.C. 112. To address that rejection, the applicant withdrew the words "with both high data rates and maximum coverage" from the claim. There were no other rejections of claim 12 and, in particular, no rejections based upon prior art. Pursuant to the most recent Office Action, the Examiner is applying, for the first time, prior art against claim 12. The applicant respectfully submits, therefore, that this most recent Office Action should not be "final" to thereby permit the applicant a first opportunity to

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Amendment dated September 23, 2003
Reply to Office Action of September 2, 2003

respond to this first application of prior art against the claim. The applicant therefore respectfully requests a substitute Office Action that is "non-final."

Respectfully submitted,

By:



Steven G. Parmelee
Registration No. 28,790

Date: September 23, 2003

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